



Gifts, Benefits and Hospitality Policy

1. PURPOSE

The purpose of this policy is to outline the City of Whitehorse's position on elected Councillors and appointed Council Officers responding to offers of gifts, benefits and hospitality.

This policy supports Councillors and Council Officers to avoid conflicts of interest and maintain high levels of integrity, accountability and public trust.

2. OBJECTIVES

The City of Whitehorse's policy objectives are to:

- Provide clear direction and guidance to Councillors and Council Officers on gifts, benefits and hospitality that may be accepted and those that may not.
- Ensure that members of the Whitehorse community and other key stakeholders have full confidence in the performance standards and conduct of Councillors and Council Officers, as it relates to gifts, benefits and hospitality.
- Further strengthen the organisation's ongoing commitment to developing a highly transparent, ethical and legislative compliant entity.

3. SCOPE AND CONTEXT

The policy applies to all Councillors and Council Officers of the City of Whitehorse and operates in conjunction with any prevailing adopted Councillor Code of Conduct and Employee Conduct Policy respectively, and relevant provisions provided in the *Local Government Act 1989* ("the Act").

The City of Whitehorse is committed to being open and transparent in its operations to minimise the risk of being placed in a compromising position that may have an adverse effect on its public endeavours and the promotion of trust within the community.

The policy serves to direct and guide Councillors and Council Officers to be responsible and honest in their dealings and apply sound judgement when dealing with offers of gifts, benefits and hospitality, so as to not compromise their decision-making by always acting impartially.

4. DEFINITIONS

Act	Means the Local Government Act 1989.
Appreciation gift	A gift presented to an individual to express thanks and a feeling of goodwill on behalf of the giver where there is no expectation of repayment.
Benefit	Something that is of value to the receiver, such as invitations to sporting, cultural or social events, access to discounts and loyalty programs, access to confidential information, accommodation or leisure holidays.
Corporate Benefits and Hospitality Register	A register that captures all offers of gifts, benefits and hospitality over \$50 in value, received, accepted and declined by Councillors and Council Officers (who are senior or nominated officers) and is on Council's website.
Departmental Gift Register	An internal register that captures all offers of gifts, benefits and hospitality, irrespective of value, received, accepted and declined by Councillors and all Council Officers.
Gift	Defined in section 3 of the Act as "any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including – a) The provision of a service (other than volunteer labour); and b) The payment of an amount in respect of a guarantee; and c) The making of a payment or contribution at a fundraising function."
Hospitality	The friendly reception and entertainment of guests that may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.
Monetary gift	Means cash, gifts cards, cheque, direct deposit or other financial facility that will financially benefit the receiver.
Non-token gift	An offer of a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value (ie equal to or more than \$50). All offers with a value of \$50 or greater are non-token offers and must be recorded on Council's Gift, Benefit and Hospitality Register.
Official gift	A gift presented to a Councillor or Council Officer as representatives of the Council, from a Sister City, Organisation or Corporation bestowing a corporate gift (ie. plaques, plates, trophies, art work) to the City, or as a token of appreciation for a contribution to a conference or industry event.

Token gift	A gift, benefit or hospitality offered as courtesy or is inconsequential or trivial in value (< \$50) to both the person making offer and the individual. Such gift would not be reasonably perceived within or outside the City of Whitehorse as influencing a Councillor or Council Officer or raising an actual, potential or perceived conflict of interest, with a value no more than \$50 (excludes cumulative offers from same source over 12 month period).
Value	Means the face value or estimated retail value.

5. POLICY

5.1 Guiding Principles - Core Principles

1. Nothing in this policy shall be construed to override the provisions of the Act. (In the event of any apparent inconsistency, provisions of the Act will prevail).
2. Councillors and Council Officers must not solicit, demand or request gifts, benefits or hospitality for themselves or another person by virtue of their position.
3. Monetary gifts of any value are not to be accepted (election donations excluded).
4. The preferred corporate standard, is that any offer of a gift, benefit or hospitality, irrespective of value, should be politely declined in the first instance.

Note further guidance:

- a) Council Officers involved with inspectorial, assessment or decision-making roles, must not under any circumstances, accept an offer of a gift, benefit or hospitality. Any offers received and then declined, must be recorded in the Departmental Gift Register.
- b) Councillors and Council Officers may experience situations where it is deemed inappropriate to decline an offer of a gift, benefit or hospitality due to specific circumstances, timing or cultural sensitivities and therefore such an offer will be accepted, subject to -

The Councillor or Council Officer assessing and determining that the acceptance of the gift, benefit or hospitality is not likely to create a real or perceived conflict of interest, presently or at a future date.

(Where the Councillor or Council Officer determines that such an offer will create a conflict of interest, the offer must unequivocally be declined).

5. All offers of gifts, benefits and hospitality accepted, returned or declined, regardless of value, must in the first instance, be recorded in the respective Departmental Gift Register, via the lodgement of a Gifts, Benefits and Hospitality Registration Form. (This applies to Councillors, Senior Officers and Nominated Officers)
6. All offers of gifts, benefits and hospitality received, accepted or declined by Councillors and Council Officers (being senior or nominated officers) and having a value equal to or above \$50 (ie a non-token gift), will be recorded in the Corporate Gifts, Benefits and Hospitality Register that will be accessible on the Council website.
7. Full and proper adherence by Councillors and Council Officers with the requirements of this policy, is dependent upon such individuals applying a high level of care, in avoiding the likely creation of unwanted perceptions, whether real or contrived, by members of the Whitehorse community and others, regarding the activities, actions and conduct of a Councillor or a Council Officer.

5.2 Simple Distinction between Gift Offers

A gift offer is either a 'token' or a 'non-token' gift.

Token gift

An offer of a gift, benefit or hospitality that is offered as a courtesy or is of inconsequential or trivial value (less than \$50) to both the person making the offer and the individual.

- The combined total value of offers from the same individual or organisation in the last 12 months does not exceed \$50 (if it exceeds, it becomes a non-token-gift).

Token Gift - Policy Direction	Yes	No
Can the offer be accepted?	√	
Is there a requirement to record offer in DEPARTMENTAL Gift Register?	√	
Is there a requirement to record offer in CORPORATE Gifts, Benefits and Hospitality Register?		√

Non-token gift

Defined as an offer of a gift, benefit or hospitality in value of or more than \$50.

- The existing Conflict of Interest Policy which applies only to Council Staff, states that non-token gifts should be politely declined.

Non-token Gift - Policy Direction	Yes	No
<i>Councillors</i>		
Can the offer be accepted?	√	
Is there a requirement to record offer in DEPARTMENTAL Gift Register?	√	
Is there a requirement to record offer in CORPORATE Gifts, Benefits and Hospitality Register?	√	
<i>Council Officers – at Senior and Nominated Officer level only</i>		
Can the offer be accepted?		√
Is there a requirement to record offer in DEPARTMENTAL Gift Register?	√	
Is there a requirement to record offer in CORPORATE Gifts, Benefits and Hospitality Register?	√	

Note: The requirement to record in the CORPORATE Gifts, Benefits and Hospitality Register applies only to Senior and Nominated Officers – ie CEO, General Managers, Managers and staff who have been nominated by the CEO by nature of their role and responsibilities.

5.3 Different types of organisational gifts

Councillors and Council Officers may be exposed to a range of circumstances where different types of gifts may be transacted. This may include:

5.3.1 Official

- From time to time individuals or organisations may offer gifts of goodwill to the Council (eg. a piece of artwork from Council’s Sister City, Matsudo) and the CEO or relevant General Manager will ensure that any such official gift is recorded in the Corporate Gifts, Benefits and Hospitality Register.
- Councillors or Council Officers may be involved in conferences, community, cultural or industry events where official gifts are presented or exchanged; and it is reasonable for representatives of the Council to accept such gifts on its behalf.
- Official gifts are deemed to be Council property; however, where the item is not suitable for public display or the gift is of a personal nature to the recipient, the CEO will use their discretion as to the appropriate use of the official gift.

Official Gifts - Policy Direction	Yes	No
Can the offer be accepted?	√	
Is there a requirement to record offer in DEPARTMENTAL Gift Register?	√	
Is there a requirement to record the offer in CORPORATE Gifts, Benefits and Hospitality Register?	√	

5.3.2 Appreciation

- Councillors and Council Officers must not accept a gift of appreciation with a value of more than \$50, but politely decline the offer explaining that it is against the Council’s policy to accept such a gift.
- If such a gift is offered in an open or public forum and refusal would be obviously discourteous or acceptance would not cause any potential perceived or actual compromise or conflict of interest, the gift may be accepted, but is to be referred to the CEO or General Manager for a decision as to the appropriate treatment.
- Where a gift is received by the organisation (eg over the counter) without any sender’s details, it is to be referred to the CEO for a decision as to the appropriate treatment.

Appreciation Gifts - Policy Direction	Yes	No
Can the offer be accepted, if value is equal to or less than \$50?	√	
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?		√
Can the offer be accepted, if value is more than \$50?		√
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?	√	

5.4 Hospitality

From time to time, Councillors and Council Officers may receive invitations of hospitality to attend various functions and events. Council Officers must obtain prior approval of relevant Manager or General Manager before accepting any offer.

Invitations may include and be classified as follows:

5.4.1 Modest and networking opportunity

Where hospitality is only modest in nature (incidental refreshments at meetings, working lunches, community events or similar) and provides an opportunity to network or undertake business of a common purpose, it may be appropriate to accept such invitations.

- Notwithstanding the nature of this type of hospitality, it is the responsibility of the Councillor or Council Officer to be attentive to the cumulative value of any such offers and to avoid the likely creation of unwanted perceptions, whether real or contrived, by members of the Whitehorse community and others, regarding the activities, actions and conduct of a Councillor or a Council Officer.

Hospitality (Modest and Networking) - Policy Direction	Yes	No
Can the offer be accepted?	√	
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?		√

5.4.2 Social, Cultural and Sporting Events

External sponsored events/tickets

Any offer of hospitality that is likely to compromise the impartiality of a Councillor or a Council Officer, or be perceived as a conflict of interest should be politely declined.

- Councillors are also encouraged to avoid potential perceptions being created either presently or at a future time, involving Councillor's patronage and/or regular attendance at events or close association with certain organisation/s.
- Council Officers are not to accept any offer of hospitality, associated with external sponsored events/tickets, excluding where 5.4.1 above applies.

Hospitality (Social, Cultural & Sporting) - Policy Direction	Yes	No
<i>Councillors</i>		
Can the offer be accepted, where no risk of Conflict of Interest?	√	
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?	√	
<i>Council Officers</i>		
Can the offer be accepted, where no risk of Conflict of Interest?		√
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?	√	
<i>Councillors and Council Officers</i>		
Can the offer be accepted, if there is risk of Conflict of Interest?		√
Is there a requirement to record offer in Departmental Gift Register?	√	
Is there a requirement to record the offer in Corporate Gifts, Benefits and Hospitality Register?	√	

5.5 OTHER MATTERS

The Gifts, Benefits and Hospitality Policy does not apply in the following instances:

5.5.1 Council related events

The attendance and participation of Councillors and Council Officers at Council sponsored events is often an expectation of respective roles.

5.5.2 Council funded events/tickets

Councillors are offered the opportunity to attend theatre shows at the Whitehorse Centre and to attend Sporting Organisation events, and the full cost of the hospitality is paid by Council.

5.5.3 Where Payment or Reimbursement Made

In some circumstances, at the discretion and as approved by the Chief Executive Officer, a Councillor or Council Officer may attend the event, if the Council either fully reimburses the organisation for the full cost of the hospitality or if the Councillor or Council Officer personally pays for their own attendance.

5.6 PROCEDURAL REQUIREMENTS

Action Required – Councillors, Senior Officers and Nominated Officers:

When a Councillor or Council Officer (applies to Senior and Nominated Officers) is required to record an offer of a gift, benefit or hospitality, the following procedure shall be followed:

- 1 Within 7 days of the offer, complete a Council's Gifts, Benefits and Hospitality Registration Form and obtain relevant endorsement, as follows:
 - Councillors to Mayor (directly or via EA Mayor & Councillors);
 - Chief Executive Officer to Mayor (directly or via EA Mayor & Councillors);
 - General Managers to CEO;
 - Managers to respective General Managers;
 - Other officers to respective Manager.
- 2 Once endorsed, the completed registration form will proceed as follows:

Where value of gift, benefit or hospitality is equal to or > \$50

The completed form will be assigned to the respective Manager, who will ensure that the respective Departmental Gift Register is updated* and a copy forwarded to the Executive Manager Governance and Customer Service to update the **Corporate Gifts, Benefits and Hospitality Register**, as deemed appropriate**.

Action Required – Council Staff (other than Senior Officers and Nominated Officers)

Gift, benefit or hospitality

Staff must declare the gift, benefit or hospitality to the respective Manager, who will ensure that the respective Departmental Gift Register is updated*.

- 3 The Executive Manager Governance and Customer Service will arrange:
 - a) To update the Corporate Gifts, Benefits and Hospitality Register on Council's website, as required; and
 - b) On a half yearly basis (January and July) present a copy of the Departmental Gift Registers to a meeting of the Executive Management Team.
4. At the end of each financial year, the Executive Manager Governance and Customer Service will arrange for a copy of all Departmental Gift Registers to be presented to Council's Audit Advisory Committee.

Notes:

- * *Respective Managers are required to conduct quarterly reviews of Departmental Gift Registers, in January, April, July and October each year (and initial and date register to evidence reviews).*
- ** *The Corporate Gifts, Benefits and Hospitality Register only captures entries for Councillors and Council Officers (ie senior or nominated officers, as defined by Act), and official gifts and appreciation gifts with a value equal to or greater than \$50.*

6. RESPONSIBILITIES

(Includes Roles and Structures)

7. RELATED POLICIES

Conflict of Interest Policy (August 2018) - (applies only to Council Staff)

Employee Conduct Policy (October 2016) - (applies only to Council Staff)

Councillor Code of Conduct (Adopted 20 February 2017)

8. APPENDICES

OTHER GUIDANCE

8.1 Provision in Local Government Act to disclose gifts received of or above \$500

Councillors and nominated Council Officers, when lodging half yearly ordinary returns are obliged to address section 8(7)(e) of the Act, which specifically requires -

“Particulars of any gift of or above the amount or value of \$500 received by you, either directly or indirectly, other than a gift received -

- i. From a person who is your relative (as defined in section 78(1) of the Act); or
- ii. As hospitality at an event or function you attended in an official capacity as the Mayor, a Councillor or a member of Council staff”.

(As applicable, Councillors and nominated officers should in the first instance complete a Gifts, Benefits and Hospitality Registration Form within 7 days of accepting such a gift and subsequently record relevant gifts in their next Ordinary Return).

8.2 Provision in Councillor Code of Conduct

Section 14. Gifts, Favours & Hospitality of the Code, specifies in part that –

“Part of the role of Councillor requires attendance at functions, receptions and visits. This may involve meeting or hosting people for different cultures. A councillor needs to be aware that:

- a) He or she should not accept directly or indirectly any fee, gift or benefit for themselves, family member or for any other person or body for anything done or action taken in pursuit of their Councillor duties; and “.

8.3 Ombudsman Victoria Guidelines

Public officers should never accept gifts offered in the following circumstances:

- Gifts of significant monetary value;
- A series of gifts with a significant cumulative value;
- Gifts given in the context of a regulatory, inspectorial, oversight or similar relationship;
- Gifts offered selectively to individuals within a work group;
- Gifts given in a secretive fashion.

(Reference: Ombudsman Victoria “Conflict of Interest in the Public Sector” March 2008)

8.4 When Encountered with a “Bribe”

If a Councillor or Council Officer believes they have been offered a bribe, it is important that they immediately act to minimise any potential for negative consequences, by taking the following steps:

- a) Terminate the interaction with the person;
- b) Make a clear record of the events surrounding the specific situation;
- c) Report the matter –
 - A Councillor should report matter to the Mayor (who will consult with CEO);
 - A Council Officer should report matter to their respective General Manager and/or to CEO (where General Manager is making report).
- d) Where the circumstances, fall within the parameters of the *Protected Disclosures Act 2012*, a disclosure should be made in the appropriate manner.

8.5 Gift Test Document - Attachment 1

This attachment provides guidance to Councillors and Council Officers on whether to accept or decline an offer of a gift, benefit or hospitality.

City of Whitehorse
Gifts, Benefits and Hospitality Policy

The **GIFT** test is a good reminder of what to think about when deciding whether to accept or decline an offer of a gift, benefit or hospitality.

G	Giver	<p><i>Who is providing the gift, benefit or hospitality and what is their relationship to me?</i></p> <p>Could the person or organisation benefit from a decision I make?</p>
I	Influence	<p><i>Are they seeking to influence my decisions or actions?</i></p> <p>Has the gift, benefit or hospitality been offered to me publically or privately?</p> <p>Does its timing coincide with a decision I am about to make?</p>
F	Favour	<p><i>Are they seeking a favour in return for the gift, benefit or hospitality?</i></p> <p>Has the gift, benefit or hospitality been offered honestly?</p> <p>Would accepting it create an obligation to return a favour?</p>
T	Trust	<p><i>Would accepting the gift, benefit or hospitality diminish public trust?</i></p> <p>How would the public view acceptance of this gift, benefit or hospitality?</p> <p>What would my colleagues, family or associates think?</p>